

**Notice of Allowability**

Application No.

10/537,881

Examiner

Samir M. Shah

Applicant(s)

HEINKS ET AL.

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/04/2006.
2. ☒ The allowed claim(s) is/are 1-3, 5-7 and 9-11.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

*Samir M. Shah*  
Samir M. Shah

### REASONS FOR ALLOWANCE

1. Claims 1-3, 5-7 and 9-11 are allowed.
2. The following is an examiner's statement of reasons for allowance:
  - (a) As to claims 1, 5 and 9, note is made only of the limitation "[receive/receiving] an input from a user indicating presence of external motion effects on the entity" in combination with the rest of the limitations in the claims
  - (b) As to claims 1, 5 and 9, the closest reference Stone et al. (US Patent 6,280,409 B1 henceforth "Stone") discloses a method of activity monitoring and an activity monitor/implantable devices (71a-71c) for attachment to an entity/patient, the monitor comprising:
    - a measurement unit including a plurality of motion sensors (76a, 76b, 76c) operable to produce respective sensor signals indicative of motion experienced thereby (figure 7; column 7, lines 7-65); and
    - a processor (77a, 77b, 77c) operable to receive the sensor signals from the measurement unit and to process the signals in accordance with a predetermined method (figure 7; column 7, lines 7-65),
    - characterized in that the processor is operable to apply a correction calculation to the sensor signals, in order to remove external motion effects (e.g. automobile driving), on the entity/patient to which the monitor/implantable devices (71a-71c) is/are attached, from the sensor signals (figure 7; column 10, lines 61-67; column 11, lines 1-7).

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(c) As to claims 1, 5 and 9, the closest secondary reference Mault (International Application Publication WO 01/89365 A2 henceforth "Mault") discloses a method of activity monitoring and an activity monitor (600) for attachment to an entity/person, the monitor comprising:

a measurement unit including a plurality of motion sensors/body mounted accelerometers/muscle activity sensors/physiological sensors (24, 160, 602) operable to produce respective sensor signals indicative of motion experienced thereby (figures 2, 13, 15; page 23, lines 7-13; page 24, lines 7-14; page 25, lines 7-10; page 27, lines 2-7); and

a processor (50, 610)/computing device operable to receive the sensor signals from the measurement unit and to process the signals in accordance with a predetermined method (figures 2, 3, 13, 15; page 23, lines 14-19; page 26, lines 2-10),

characterized in that the processor (50, 610)/computing device is operable to apply a correction calculation to the sensor signals, in order to remove external motion effects (e.g. automobile, elevator, etc.), on the entity/person to which the monitor is attached, from the sensor signals (figures 2, 3; page 28, lines 15-21).

(d) However, both Stone and Mault fail to disclose receiving an input from a user indicating presence of external motion effects on the entity/person.

(e) Therefore, the prior neither teaches nor provides the motivation to combine the above-mentioned limitation in combination with the rest of the limitations in the claims.

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3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samir M. Shah whose telephone number is (571) 272-2671. The examiner can normally be reached on Monday-Friday 9:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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12/24/2006

*Hezron Williams*

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